

**R. J. REYNOLDS TOBACCO USA
CIGARETTE CARTON MERCHANDISER
ELECTRONIC SECURITY SYSTEM
LEASE AND LICENSE AGREEMENT**

AGREEMENT made and entered into effective the 5TH day of OCTOBER, 1989, and between R.J. REYNOLDS TOBACCO USA, a division of R.J. Reynolds Tobacco Company, a New Jersey corporation (hereinafter referred to as "RJR") and Jamesway (hereinafter referred to as "Retailer").

1. Lease and License

1.1 RJR agrees to lease and install on identified Cigarette Carton Merchandiser(s) the Cigarette Carton Merchandiser Electronic Security System(s), (hereinafter individually and collectively called "Security System(s)"), which are identified by serial number(s) in the Appendix A hereto, which is hereby incorporated herein by reference. Title to the Security System(s) shall remain in RJR. RJR hereby grants to Retailer a non-assignable, non-transferable license under Pending U.S. Patent Application for "Anti-Theft Product Rack and Method" for the use of the Security System(s) as provided in Section 1.2 hereof.

1.2 Retailer is hereby licensed under, Pending United States Patent Application for "Anti-Theft Product Rack and Method" to use those shelves of the Security system(s) below the top two for the display of cigarette cartons, and to use the top two shelves of the Security System(s) for the display of RJR cigarette cartons only. Retailer is not required to purchase or to display any RJR products whatsoever in order to participate in this lease and license agreement, but the top two shelves of the Security System(s) are licensed under Pending United States Patent Application only for use for the display of RJR cigarette cartons. If RJR cigarette cartons are not displayed on the top two shelves, the top two shelves cannot be merchandised with or contain any other products under this license, but the remainder of the shelves below the top are still licensed and may still be used for the display of cigarette cartons. (In operating areas where RJR's share of the market is less than 30%, RJR is willing to license a portion of the top two shelves for the display of non-RJR cigarette cartons, the minimum percentage of rows licensed only for the display of RJR cigarette cartons shall be not less than RJR's share of market for the operating area, and in no instance will more than 75% of the total rows available be licensed for the display of non-RJR cigarette cartons.)

2. ~~RENT~~

2.1 ~~Retailer agrees to pay RJR the fee set forth in Section 2.2 for each security system identified in the Appendix A.~~

2.2 ~~Retailer agrees to pay RJR a fee of \$1,000.00 per month for each security system according to the terms specified in Appendix A. If Retailer should purchase from RJR any security system, the fee shall not apply. Retailer's obligation to pay the fee shall not be affected by the fact that Retailer may not be required to purchase from RJR any security system in order to participate in this lease and license agreement. If Retailer does not participate in this agreement, it shall not be required to pay the fee. The fee shall be paid to RJR.~~

3. Scope of Lease and License

3.1 The lease and license granted under the Agreement by RJR to Retailer shall extend only to Retailer's use of the Security System(s) as installed by RJR.

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4. Repair of Security System(s)

4.1 For the first three years of this license, RJR will repair the Security System(s) upon request of the Retailer (excluding batteries). If, within this three year period, in the sole judgment of RJR, repair is not practical, RJR will replace the Security System(s) at no charge. Except as set forth below, RJR will absorb the costs of labor and parts associated with such repair or replacement. After the first three years of this license, any repairs shall be at the expense of the Retailer.

4.2 The obligation set forth in Section ^{4.1} 3.1 to repair or replace at RJR's cost shall not extend to repairs or replacements resulting from accidents, misuse or unauthorized alterations to Security System(s) or Cigarette Carton Merchandisers(s). The cost for labor and materials associated with such repairs or replacement shall be at Retailer's expense. **ALL WARRANTIES EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED.**

4.3 For repairs which are to be at Retailer's expense, but are performed by RJR at Retailer's request, Retailer may elect on Appendix A to have the cost of those repairs deducted from any self-service carton contract payments which may be payable to Retailer. If Retailer does not so elect, charges for repairs by RJR at Retailer's request are payable 30 days after repair.

5. Term

5.1 The term of the license granted under Section 1 shall be one (1) year from the effective date of this Agreement and thereafter shall continue from year to year but subject to the following:

~~1. RJR shall terminate the license as to any Security System(s) if the Retailer, upon any date upon which any payment is due to RJR, requests that the Security System(s) be removed, thereby terminating the lease and license as to such Security System(s).~~

2. RJR may terminate the lease and license (a) at any time in the event (i) that Retailer uses the Security System(s) outside the scope of the license set forth in Section 1, (ii) of any unauthorized modification or tampering with the Security System(s) by Retailer, (iii) if Retailer violates any provision of this Agreement, or (iv) in the event that RJR terminates this Security System Program in its entirety, upon thirty (30) days written notice to Retailer, or (b) after first year of this Agreement at any time upon thirty (30) days written notice to retailer.

5.2 Upon termination of the lease and license as to any Security System(s), RJR may enter upon Retailer's premises at any time during Retailer's normal business operating hours and remove such Security System(s).

6. Limitation of Liability

6.1 RJR shall in no event be liable for any loss or damage arising from any cause beyond RJR's control. In no event shall RJR be liable for any special, incidental or consequential damages suffered by Retailer including, but not limited to, loss of profits or other economic loss, loss of use, or other similar damage arising out of any claimed breach of obligations hereunder or negligence. Retailer hereby agrees to indemnify, defend and hold harmless from and against any and all claims, demands, damages and costs arising out of this agreement and Retailer's use of the Security System(s) and Cigarette Carton Merchandisers which are not occasioned by the sole negligence of RJR.

7. Assignment

The lease and license granted to Retailer hereunder shall be used for the exclusive benefit of Retailer. Retailer shall not assign, transfer or sub-license this agreement, or any rights hereunder, in whole or in part, without RJR's prior written consent.

Retailer hereby represents that the person signing this Agreement on behalf of the Retailer is duly authorized to bind Retailer.

R.J. REYNOLDS TOBACCO USA,
A Division of
R.J. Reynolds Tobacco Company

By: G. R. Kuruc, Jr.

Title: Division Manager
Field Sales
(or whichever Manager from the
Sales Department will be signing
this on behalf of RJRT USA)

Retailer: Jamesway Corporation

Sales Information

System Account No.: 0937-00-00

By: [Signature]

Title: [Signature]

Date: 10/5/89

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ADDENDUM B

RJR agrees that, in lieu of paying the fee specified in paragraph 2, retailer can substitute for it certain merchandising commitments specified below. Performance of these commitments will be deemed payment in full of the fee set forth in paragraph 2 of the Lease and License Agreement.

For a period of three (3) years:

- ā Merchandise cartons of cigarettes on merchandisers supplied by RJR utilizing shelf contract SS-1 or SS-3 (test area only).
- ā Plus the following:
 - Merchandise packs of cigarettes on merchandisers supplied by RJR.
 - Utilize RJR carton merchandisers in 100% of the stores that merchandise cartons self-service.

